

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5153
Friends of Barbara Boxer)
and Michael Ohleyer, as treasurer)
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Friends of Barbara Boxer and Michael Ohleyer, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(6)(A) and 434(b).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Friends of Barbara Boxer is a political committee within the meaning of 2 U.S.C. § 431(4) and is the authorized principal campaign committee for Senator Barbara Boxer's 1998 senatorial campaign.

2. Michael Ohleyer is the treasurer of Friends of Barbara Boxer.

3. The Federal Election Campaign Act of 1971, as amended, ("the Act") requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Commission, as appropriate, and the Secretary of State of the appropriate state, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The notification of these contributions shall be in addition to all other reporting requirements.

2 U.S.C. § 434(a)(6)(B). Pursuant to 2 U.S.C. § 434(b), all reports must disclose the total amount of all receipts received during each reporting period.

4. Among the contributions that the Respondents received between October 15, 1998, and October 31, 1998, were fifty-five contributions of \$1,000 or more totaling \$58,222.77. The Respondents did not submit 48 Hour Notices for these contributions.

5. Among the contributions that the Respondents received between October 1, 1998, and October 14, 1998, were five contributions totaling \$9,000 that were reported on the 1998 30-Day Post-General Report as having been received on October 15, 1998. The Respondents did not amend their FEC reports to disclose these contributions on their 1998 12-Day Pre-General Report for over two years.

6. Respondents contend that while they failed to properly report these contributions, they nonetheless disclosed these contributions on subsequent reports. Respondents

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contend that any violation of the law was inadvertent and that they did not intentionally violate the Act. Respondents contend that the violations were not knowing and willful.

V. 1. The Respondents failed to report campaign contributions of \$1,000 or more received after the 20th day, but more than 48 hours before the 1998 general election, within 48 hours of receipt of the contributions, in violation of 2 U.S.C. § 434(a)(6)(A).

2. The Respondents failed to properly report campaign contributions totaling \$9,000 on the 1998 12-Day Pre-General Report, in violation of 2 U.S.C. § 434(b).

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Seven Thousand Eight Hundred Fifty Dollars (\$7,850.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will amend the 1998 30-Day Post-General Report memo entries on Schedule A for Line 12 within the thirty (30) day time period set forth in paragraph IX.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement, or any requirement thereof, has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lois G. Lerner
Acting General Counsel

BY: Abigail A. Shaine
Abigail A. Shaine
Acting Associate General Counsel

6/7/01
Date

FOR THE RESPONDENTS:

Stephen J. Kaufman
(Name) Stephen J. Kaufman
(Position) Counsel

3/19/01
Date